

EXHIBIT 47

1 UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION

4 IN RE: NATIONAL)
5 PRESCRIPTION) MDL No. 2804
6 OPIATE LITIGATION)
7 _____) Case No.
8) 1:17-MD-2804
9)
10 THIS DOCUMENT RELATES) Hon. Dan A.
11 TO: Case Track 8) Polster
12)

13 FRIDAY, OCTOBER 7, 2022

14 HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER
15 CONFIDENTIALITY REVIEW

16 - - -

17 Remote videotaped deposition of
18 30(b)(6) Publix Super Markets, Inc., designee
19 Chris Hewell, held at the location of the
20 witness in Lakeland, Florida, commencing at
21 10:04 a.m. Eastern Time, on the above date,
22 before Carrie A. Campbell, Registered
23 Diplomate Reporter, Certified Realtime
24 Reporter, Illinois, California & Texas
25 Certified Shorthand Reporter, Missouri,
Kansas, Louisiana & New Jersey Certified
Court Reporter.

- - -

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15 COREY SMITH, trial technician,
Precision Trial Solutions
16

17

VIDEOGRAPHER:

18 ZACH HONE,
Golkow Litigation Services
19

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1 VIDEOGRAPHER: We are now on
2 the record. My name is Zach Hone.
3 I'm a videographer for Golkow
4 Litigation Services.

5 Today's date is October 7,
6 2022, and the time is 10:04 a.m.

7 This remote video deposition is
8 being held in the matter of In Re:
9 National Prescription Opiate
10 Litigation, United States District
11 Court, Northern District of Ohio,
12 Eastern Division.

13 The deponent is Chris Hewell.

14 Counsel will be noted on the
15 stenographic record.

16 The court reporter is Carrie
17 Campbell and will now swear in the
18 witness.

19
20 CHRIS HEWELL,
21 of lawful age, having been first duly sworn
22 to tell the truth, the whole truth and
23 nothing but the truth, deposes and says on
24 behalf of the Plaintiffs, as follows:
25

1 DIRECT EXAMINATION

2 QUESTIONS BY MS. CONROY:

3 Q. Good morning, Mr. Hewell. My
4 name is Jayne Conroy, and I'm going to be
5 asking you some questions concerning your
6 presence here today as a 30(b)(6) witness for
7 Publix.

8 And this is actually a
9 continuation of a deposition that was a
10 couple of weeks ago, and so you understand
11 you're still under oath?

12 A. Yes.

13 Q. Okay. And I don't think we
14 probably -- I don't really need to go
15 through -- you know you're testifying on
16 behalf of Publix?

17 A. Yes.

18 Q. Okay. So let me, first of all,
19 show you what was marked at your -- the first
20 day of your deposition as Exhibit 1, which is
21 the fourth revised notice of deposition.

22 Does that sound familiar to
23 you?

24 A. Yes.

25 Q. Okay. And just to orient

1 notes related to the patient.

2 And I'm getting feedback. I
3 don't know if somebody needs to go on
4 mute.

5 But there's note -- a notes
6 field where we can inform the
7 patient --

8 MS. CONROY: Yeah, we still --
9 I can hear it --

10 MS. FITZPATRICK: Let's go off
11 the record and fix that, if we can.

12 VIDEOGRAPHER: Okay. Off
13 record. The time is 1:44.

14 (Off the record at 1:44 p.m.)

15 VIDEOGRAPHER: Back on record.
16 The time is 1:46.

17 QUESTIONS BY MS. CONROY:

18 Q. I had asked you, where would a
19 pharmacist document the resolution of a red
20 flag or a concern about a prescription that
21 was not related to a drug utilization review
22 resolution.

23 A. So, like I said, I'll speak to
24 where our pharmacist can document any notes.
25 And our pharmacist can document notes as a

1 prescription note, and prescription notes are
2 relevant to that entire prescription. No
3 matter how many refills, that prescription
4 note will always be attached to that
5 prescription.

6 We have transaction notes, and
7 transaction notes are relevant to that
8 specific transaction. So if a prescription
9 has, let's say, five or six refills, if you
10 want -- if you had a note to put on a
11 particular transaction, it would only be
12 relevant for that particular refill. So if
13 it's refill number 2, you would have a note
14 that says, you know, I don't know, patient
15 decided to discontinue some other med. You
16 can put a transaction note there. It's
17 only -- it's only relevant for the one
18 transaction.

19 There's counseling notes, and
20 counseling notes are notes that are relevant
21 to the -- to the one prescription that you're
22 dispensing -- or the one transaction you're
23 dispensing.

24 Going through the other notes
25 that our pharmacists can enter into

1 EnterpriseRx, there's patient notes, and
2 patient notes are obviously relevant to --
3 any relevant notes that we would want to
4 document regarding a patient.

5 And then we have prescriber
6 notes, and prescriber notes are related to
7 the individual prescriber.

8 Q. Okay. Now, the prescription
9 note lives with the prescriptions, right?
10 Stays with the prescription?

11 A. That's -- when you say it
12 "stays with the prescription," it's -- when
13 you -- when we talked about going and
14 accessing a prescription image --

15 Q. Uh-huh.

16 A. -- you either search by RX
17 number or you can pull up the patient and
18 scroll down and select that individual
19 prescription. Whichever way you do it,
20 you'll have access to the prescription image,
21 but there's also -- you also have access to
22 the individual prescription note.

23 Q. And I would have access by
24 clicking on some sort of a box that would say
25 "notes" or something like that, and then if

1 QUESTIONS BY MS. CONROY:

2 Q. Now, if we -- with respect to
3 the prescriber notes -- well, let me ask you
4 generally without referencing the prescriber
5 notes.

6 Are you aware of any ability of
7 the ERX database to identify a prescriber as
8 a blocked prescriber with respect to the
9 dispensing of -- the writing of prescriptions
10 for controlled substances?

11 MS. WHITE: Object to form.

12 THE WITNESS: Can you repeat
13 that question?

14 QUESTIONS BY MS. CONROY:

15 Q. Sure.

16 Are you aware of any ability in
17 the ERX system to make a notation that a
18 prescriber is blocked from writing controlled
19 substance prescriptions?

20 MS. WHITE: Object to form.

21 THE WITNESS: Are you asking if
22 EnterpriseRx has the ability to block
23 prescribers?

24 QUESTIONS BY MS. CONROY:

25 Q. Well, that would be one way.

1 Or there would be an alert, and then the
2 pharmacist would refuse to fill the
3 prescription. I don't -- you know, is there
4 something in the data that would inform a
5 pharmacist or a technician that a particular
6 prescriber was blocked?

7 MS. WHITE: Object to form.

8 THE WITNESS: There's no
9 systematic feature in EnterpriseRx
10 that would systematically notify a
11 user of such an instance.

12 QUESTIONS BY MS. CONROY:

13 Q. Can ERX block a prescriber?

14 MS. WHITE: Object to form.

15 QUESTIONS BY MS. CONROY:

16 Q. So that, you know, for example,
17 you couldn't pull the -- you couldn't
18 write -- you couldn't actually go through the
19 workflow for a particular prescriber?

20 MS. WHITE: Object to form.

21 THE WITNESS: Look, as I
22 mentioned, there's not really a
23 feature in EnterpriseRx to
24 systematically block a prescriber from
25 being utilized, so...

1 QUESTIONS BY MS. CONROY:

2 Q. Can a -- strike that.

3 If someone is going to delete a
4 note field -- and let's, by example, use a
5 prescriber note as an example.

6 If a pharmacist decides to
7 delete a note that is in the prescriber notes
8 that that pharmacist did not write, is there
9 any -- is there any prohibition against that
10 or can anybody delete?

11 MS. WHITE: Object to form.

12 THE WITNESS: There's no
13 restrictions on who can delete a
14 prescriber note in EnterpriseRx.

15 QUESTIONS BY MS. CONROY:

16 Q. If a pharmacist is presented a
17 prescription by a customer who appears
18 inebriated, do you have an understanding of
19 where the pharmacist would record or make a
20 note of that situation?

21 MS. WHITE: Object to form.

22 THE WITNESS: I'm not aware if
23 that -- I'm not aware that that's
24 required. And if they were to make a
25 note, they would utilize the note

1 fields that I've discussed earlier.

2 QUESTIONS BY MS. CONROY:

3 Q. And what would be the most
4 likely note field for that kind of a comment?

5 MS. WHITE: Object to form.

6 THE WITNESS: If a pharmacy
7 user or a pharmacist felt it necessary
8 to document a note, the only
9 reasonable note field that would make
10 sense here would be -- well, depends
11 on if they dropped off a prescription
12 or not. But most likely it would be a
13 patient note. If they dropped off a
14 prescription, they might utilize a
15 prescription note, but those would be
16 the two most likely fields.

17 QUESTIONS BY MS. CONROY:

18 Q. Okay. The hardcopy scripts
19 that we talked about, would they -- do you
20 know, are they kept in the pharmacy itself
21 for a period of time?

22 A. Yes. They're kept in the
23 pharmacy as well as a -- we have a secure
24 document storage cabinet in the back of every
25 store.